



April 6, 2016

Mr. Curtis Howe
P.O. Box 118
Renton, WA 98057

Dear Mr. Howe:

This is in response to your U.S. General Services Administration (GSA) Freedom of Information Act (FOIA) request (GSA-2016-000569) dated March 29, 2016, in which you requested:

"GSA Sponsored New Regional Office Building - Federal Aviation Administration, Northwest-Mountain Region Request a true and certified copy of all documentation used to prepare and produce final documentary proof of the above project's compliance with the National Environmental Policy Act (NEPA). Specifically: Provide true and certified copy of documentation used to determine WHAT level of NEPA analysis was performed. Provide true and certified copy of documentation used to determine WHY the selected level of NEPA analysis was selected. Provide a true and certified copy of a listing of all parties involved in performing the NEPA analysis. Provide a true and certified copy of the parties approving any final NEPA analysis done for the above project. Provide a true and certified copy of any notification(s) and/or approval(s), and/or collaboration with local U.S. Environmental Protection Agency Region 10 NEPA subject-matter-experts or other USEPA office. Specifically address how local residents, school boards, business owners, and other stakeholders were informed and allowed to provide comment(s) on such environmental, quality of life, socio-economic, etc. impacts due to: -1,600 automobiles using local Des Moines, Washington streets; -Impact of 1,600 cars to school bus routes during daily school shifts and work shift changes; -Impact on local air quality; -Loss of 1,600 workers to Renton, Washington business community; and other arguable impacts of the project."

Responses to each request are provided below:

1. Provide true and certified copy of documentation used to determine WHAT level of NEPA analysis was performed.

As GSA is not the owner or constructor of the building, the agency is not responsible for the determination of what level of NEPA analysis was performed. Accordingly, GSA does not have any documents responsive to this request.

2. Provide true and certified copy of documentation used to determine WHY the selected level of NEPA analysis was selected.

As GSA is not the owner or constructor of the building, the agency is not involved in the determination of the level of NEPA analysis. Accordingly, GSA has no documents responsive to this request. GSA follows the guidance provided in the Leasing Desk Guide and the NEPA Desk Guide which are publicly available. Pursuant to that guidance, the lessor causes the performance of the relevant analysis under NEPA. Enclosed please find Chapter 18, Part 6 of the Leasing Desk Guide and Section 9.5 of the NEPA Desk Guide.

3. Provide a true and certified copy of a listing of all parties involved in performing the NEPA analysis.

GSA has not identified any documents in our files responsive to this request.

4. Provide a true and certified copy of the partie(s) approving any final NEPA analysis done for the above project.

GSA has not identified any documents in our files responsive to this request.

5. Provide a true and certified copy of any notification(s) and/or approval(s), and/or collaboration with local U.S. Environmental Protection Agency Region 10 NEPA subject-matter-experts or other USEPA office.

Any necessary coordination with the EPA is handled by the owner of the property. GSA has not identified any documents in our files responsive to this request.

6. Specifically address how local residents, school boards, business owners, and other stakeholders were informed and allowed to provide comment(s) on such environmental, quality of life, socio-economic, etc. impacts due to: -1,600 automobiles using local Des Moines, Washington streets; -Impact of 1,600 cars to school bus routes during daily school shifts and work shift changes; -Impact on local air quality; -Loss of 1,600 workers to Renton,

Washington business community; and other arguable impacts of the project.

In response to a FOIA request, GSA can only provide existing documents. GSA has not located any documents in our files responsive to this request.

As indicated above, enclosed are selections of the Leasing Desk Guide and the NEPA Desk Guide which are publicly available.

Our search of GSA records failed to identify any records or files that are responsive to your request. Since GSA does not have any records within the scope of your request, this does not constitute a denial of records. However, you can appeal the adequacy of GSA's search by writing within 120 days of your receipt of this letter to:

U.S. General Services Administration
Freedom of Information Act (FOIA) Requester Service Center
1800 F. Street, Northwest, Room 7308
Washington, DC 20405

Your appeal must be in writing and should contain a brief statement of the reasons why GSA should have the requested information. Enclose a copy of your initial request and a copy of this letter. Both the appeal letter and envelope should be prominently marked, "Freedom of Information Act Appeal."

This completes our action on this request. Should you have any questions, please contact Mr. Paul T. Witherspoon, Supervisory Project Executive, Leasing Division, GSA, PBS, Northwest/Arctic Region at (253) 561-2982 or via email at paul.witherspoon@gsa.gov

Sincerely,

Travis Lewis

Travis Lewis
FOIA Branch Director

Enclosures



- Diversion of at least 50 percent of non-hazardous solid waste, construction and demolition materials and debris by the end of fiscal year 2015.
- Advance regional and local integrated planning by ensuring that planning for new Federal facilities or new leases includes consideration of sites that are pedestrian friendly, near existing employment centers, and accessible to public transit, and emphasizes existing central cities, and in rural communities, existing or planned town centers.
- At least 15 percent of an agency's existing buildings and building leases above 5,000 gross square feet meet the Guiding Principles by fiscal year 2015. GSA has set a higher target of 18 percent.
- 95 percent of new contract actions, including task and delivery orders for products and services (with the exception of the acquisition of weapon systems), must be energy efficient (ENERGY STAR® or Federal Energy Management Program designated), water-efficient, biobased, environmentally preferable, non-ozone depleting, contain recycled content, or nontoxic or contain less toxic alternatives, where such products and services meet agency performance requirements.

6. National Environmental Policy Act Compliance

The National Environmental Policy Act (NEPA) of 1969 is a Federal law that is one of the Nation's fundamental charters for environmental protection. It requires that all Federal agencies consider the potential environmental impacts of proposed actions. NEPA promotes better agency decision making by ensuring that quality environmental information is available to agency officials and the public before the agency decides whether and how to undertake a major Federal action. NEPA requires an assessment of the environmental impact of every proposed Federal action that could affect the environment. Since all Federal actions are subject to the requirements of NEPA, all leasing actions must document NEPA compliance in the lease file.

The appropriate NEPA compliance for a specific action (Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement) will be determined by the Regional NEPA Specialist or Regional Environmental Quality Advisor. The Leasing Specialist must initiate conversations with the regional NEPA expert early and often in the leasing process, before the opportunity to consider alternatives has been overtaken by the urgency of the lease requirement.

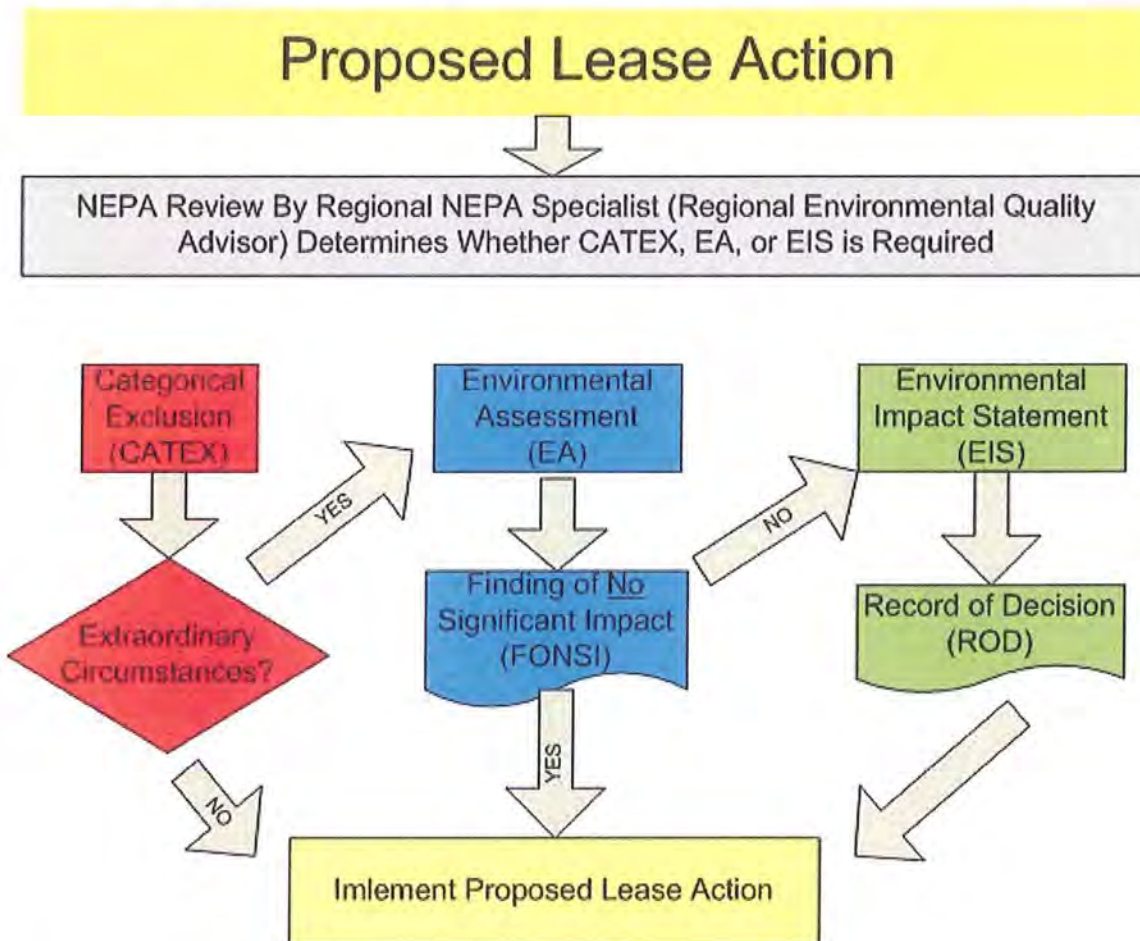
Most GSA leases either acquire space in an existing building that does not change the type or intensity of use, or are lease extensions, renewals, and succeeding leases. These are categorically excluded from a formal NEPA assessment.

The Council on Environmental Quality guidelines (at 40 CFR 1508.4) support a categorical exclusion (CATEX) for most leases. The guidelines define a CATEX to encompass actions that "do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency...and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required."

Categorical exclusions will be considered either an "automatic" CATEX, meaning a type of action that experience has shown never poses a significant impact on the quality of the human environment, or a "checklist" CATEX, meaning a type of action that requires completion of a checklist to ascertain that extraordinary circumstances do not exist.

Additional information regarding the NEPA process and GSA's implementing instructions can be found in the PBS NEPA Deskguide (http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/page/PL/Documents/PL/library/NEPA_DeskGuide_1.pdf) and the GSA PBS NEPA Integration Guide (2007).

The flowchart below outlines the three levels of NEPA documentation required for a proposed lease action, including Categorical Exclusion (CATEX), Environmental Assessment (EA), or Environmental Impact Statement (EIS).



7. Sustainable Location Policy for Leases

Location policy considerations are an essential part of the requirements development and lease acquisition process. Desk Guide Chapter 2, New or Replacing Lease, provides a detailed description of regulations, policies, and factors that affect agencies' location decisions and selection of delineated areas.

Since location factors are not addressed in the current Guiding Principles (GP) for Federal Leadership in High Performance and Sustainable Buildings issued in December 2008 by OMB, they are not included in the list of mandatory lease paragraphs associated with GP compliance.



PBS

National Environmental Policy Act

NEPA Desk Guide

October 1999

U.S. General Services Administration
Washington, D.C. 20405

historic properties, not for all kinds of cultural resources; be careful in using such terminology in establishing study methods.

- Types of cultural resource expertise necessary (archeologist, architects, folklorists, landscape architects, geographers, engineers, and Native American religious specialists are not interchangeable; an appropriate interdisciplinary mix is necessary and defined based on scoping).
- Supplementary studies needed (for example, radiocarbon dating, paint analysis, archival research, interviews, sub-surface radar or other non-destructive profiling, geomorphology studies, osteoanalysis).
- Nature of documentation required (reports, archivally stable photographs, maps, computer output of various kinds).

9.4.4 Study Results

Because of the variety of types of cultural resources, and the variety of types of cultural resource studies, no single list of “study results” is easily constructed.

In general, however, cultural resources assessment studies for NEPA compliance will result in the following types of items:

- A report, including description of qualifications of survey personnel, methods used during the survey, objectives of the survey, survey design, results of background research, results of file or archival searches, actual results of the field survey, evaluations of any resources located during the survey, and recommended GSA actions in light of the survey results.
- Maps, photographs, audio or videotapes, computer printouts and disks, re-

sults of special studies, and bibliographic material as appropriate.

- In some cases, completed standard forms (such as historic property inventory forms).
- Field notes and other background materials.

The FPO or RHPOs should be involved in the design and technical review of cultural resource studies to ensure they meet pertinent regulatory and professional standards and will provide program staff with the data needed both for NEPA analysis and for compliance with such pertinent other authorities as the ACHP Section 106 regulations (36 CFR 800) and the NPS NAGPRA regulations (43 CFR 10).

The level of detail seemingly required by the historic preservation regulations in particular—sufficient information to determine the eligibility of particular properties for inclusion in the National Register of Historic Places—can be very difficult and costly, if not impossible, to obtain at the early stage of planning when NEPA analysis must be performed. NEPA analysts are sometimes tempted to put off the work needed to comply with NHPA Section 106 until after a FONSI has been issued or an EIS has been finalized. This is very bad practice, however, since it places GSA in the position of making decisions without full data, in a manner inconsistent with the spirit if not the letter of both NEPA and NHPA. This is an unresolved problem that simply must be considered in designing a cultural resources assessment study.

9.5 DUE DILIGENCE REPORTS

9.5.1 Legal Requirements

“Environmental Due Diligence” is a term of art that describes the responsibilities of a landowner such as GSA to conduct an appropriate inquiry prior to purchase or devel-

opment of a parcel of commercial real estate and ensure that all “recognized environmental conditions” have been identified. A “recognized environmental condition” means the presence or likely presence of any hazardous substances covered under the terms of CERCLA, as well as petroleum products, asbestos, lead-based paint, radon, and other environmental hazards covered under other laws or industry practice.

By exercising such due diligence, GSA gains two benefits:

- (1) it has access to the “innocent landowner defense” under CERCLA; and
- (2) it has likely identified the presence of any hazardous materials on the site that may need remediation.

Due diligence requires, at a minimum, preparation of an environmental due diligence assessment often called a “Phase I Environmental Site Assessment” or simply a “Phase I.” If the Phase I study indicates the likely presence of a “recognized environmental condition,” a “Phase II” characterization study must also be conducted.

9.5.2 Data Requirements

The legal standard of “appropriate inquiry” implies that the actual level of inquiry will vary, depending on the specific circumstances of the property in question.

Phase I studies are presumed valid for 180 days, although older ones may be used depending on the specific circumstances of the property.

Current industry practice as set forth in American Society for Testing and Materials (ASTM) Standards #E1527 (Environmental Site Assessments) and 1528 (Transaction Screen Process) describe the major data requirements for a Phase I study. Because Phase II studies are based on the results of Phase I, no standard data set is required for

Phase II studies (see ASTM E 1903-97, “Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process,” February 1998).

Phase I Environmental Site Assessments require the following data to be collected:

- (1) Based on a records review, including searches of Federal, State and local lists, data on the following types of sites within the following standard approximate minimum search distances:
 - Federal NPL sites- 1.0 miles
 - Federal CERCLIS list- .5 miles
 - Federal RCRA TSDFs- 1.0 miles
 - Federal RCRA generators—local
 - Federal ERNS list-property only
 - State hazardous. waste sites-1.0 miles
 - State landfills-0.5 miles
 - State leaking USTs-0.5 miles
 - State registered USTs - local

The standard map for indicating site location is a United States Geological Survey (USGS) 7.5’ quadrangle map; other, non-standard maps may be used if the site location is not readily ascertainable from a USGS map, or if no USGS map is available for the study area.

Review records back to the first obvious developed use (including previous agricultural uses or placement of fill) or to 1940, whichever is earlier. Determine property uses from historical sources, but use common sense (i.e., very early properties need only be researched back to the point at which their use could have generated pollutants, not to their original settlement by the Pilgrims, the Spanish, or an Indian tribe).

- (1) Use site reconnaissance to inspect the property, including exteriors and interiors of any buildings or structures, site setting, current and past uses of the property and adjoining properties, and roads of any features of the natural en-

vironment (geology, topography, hydrology, etc.) that may affect migration of hazardous substances to or from the property being reviewed.

- (2) The review should especially note the existence of any odors, standing pools, containers, corrosion, stained soils, stressed vegetation, waste piles, HVAC systems, equipment containing PCBs, asbestos, possible lead-based paint, etc.
- (3) Interviews with current and prior owners and occupants, as well as local government officials, are aimed at discovering specific information about site uses, either to fill in gaps in records reviewed or to corroborate information obtained from records.

9.5.3 Study Methods

Phase I studies involve reviewing records, visiting the site, and interviewing owners, occupants, and government officials. No specific methods for conducting such activities are prescribed in the standards, but these activities must be conducted by an "environmental professional," defined as a person with sufficient training and experience to accomplish these tasks and develop conclusions regarding the existence of "recognized environmental conditions" on the property. Phase I studies do not involve taking samples or conducting laboratory analysis.

Because much Phase I research is historical, it is usually cost-effective to coordinate such research with the cultural resources assessment (if one is performed).

Phase II studies do involve physical sampling and laboratory analysis. The ASTM guide for Phase II studies requires development of a work plan in which the specific sampling plan, chemical testing plan, and quality assessment/quality control procedures are defined. Field and laboratory

analytical techniques for hazardous materials are usually defined by existing EPA and ASTM standards, which should guide development and review of the Phase II work plan. Phase II studies should also be coordinated with the cultural resources assessment if one is performed, both to maximize efficiency (auguring to identify USTs or waste plumes may provide information on buried archeological sites, and vice-versa) and to minimize damage to historic properties and other cultural resources (sampling material from the walls of a historic building may damage it).

9.5.4 Study Results

Phase I studies result in reports that describe the study, including documentation of research conducted, credentials of the environmental professional conducting the study, the environmental professional's opinion of the impact of any recognized environmental conditions in connection with the property, and the environmental professional's signature.

The report must have a Findings and Conclusions section that contains one of the following two statements:

Recognized Environmental Conditions Absent

"We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 of [insert address or legal description], the property. Any exceptions to, or deletions from, this practice are described in Section [] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property."

Recognized Environmental Conditions Present

"We have performed a Phase I Environmental Site Assessment in conformance

with the scope and limitations of ASTM Practice E 1527 of [insert address or legal description], the property. Any exceptions to, or deletions from, this practice are described in Section [] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property except for the following: [list]."

Where the Phase I study shows that there are or may be "recognized environmental conditions" on the property, if GSA continues to plan use of the property it will usually be necessary to conduct a more detailed Phase II study to characterize the conditions more fully. Work to remediate the conditions (e.g., by removing the pollutants) would then be scheduled as part of the planned project.

9.6 FLOODPLAIN STUDIES

9.6.1 Legal Requirements

EO 11988 requires GSA to evaluate the potential effects of any actions it may take in a floodplain, and to ensure that its plans consider flood hazards and floodplain management needs.

The "floodplain" of concern is usually the "100-year floodplain," which is defined as the area subject to a one percent (or greater) chance of flooding in any given year. For certain critical actions (i.e., those for which even a slight chance of flooding would be too great), the "500-year floodplain" (area subject to a 0.2 percent chance of flooding in a given year) is the area of concern. Guidelines originally published by the (now defunct) Water Resources Council in 1978, and now overseen by the Federal Emergency Management Agency (FEMA) provide guidance for determining whether an action is "critical." These FEMA guidelines ("Guidelines for Implementing Executive Order 11988;" Water Resources Council, February 10, 1978, 43 FR 6030-6055) should be maintained by the REQA and

made available to program staff, together with related guidance material issued by FEMA.

Effects of an action on a floodplain include not only the effect of actually doing something on the floodplain, but also of inducing someone else to do something. If GSA constructs a building outside the floodplain that stimulates development on the floodplain, this floodplain development must be considered under EO 11988 and its implementing guidelines.

"Early public review" of proposed actions in a floodplain also is required. This review usually is coordinated with the public involvement process required under NEPA.

9.6.2 Data Requirements

GSA must determine whether its proposed action or alternatives will be located in or affect (e.g., by stimulating development of) a floodplain, as defined in the FEMA guidelines.

9.6.3 Study Methods

The FEMA guidelines establish an eight-step process to follow in assessing and addressing floodplain effects.

Step 1: Determine whether the action is likely to occur in or affect a 100-year floodplain. To do this, GSA must consult the official floodplain maps maintained by FEMA, called Flood Insurance Rate Maps (FIRMs).

If the area of interest is not covered by FIRMs, other maps prepared by the U.S. Army Corps of Engineers (USACE), USGS, or other Federal or State agencies may be used.

In the absence of any previously mapped data, a geologist, hydrologist, botanist or other qualified professional must conduct an archival and/or field study to determine